

Overview of Public Defender's Litigation to Protect Individuals' Right to Counsel

- Miami Dade Public Defender's Office handles approximately 100,000 cases each fiscal year.
- \$3.8 million (14%) in budget cuts to PD-11 the last 2 years.
- In June 2008, filed motion to decline new cases. State Attorney opposed it.
- **During 2008 litigation, PD-11 estimated that felony APDs handled 438 cases annually. In 2009 litigation, evidence showed the actual number for a "C" felony APD to be almost 1000 cases.**
- Basic issues: Indigent defendants have a constitutional right to an effective, conflict-free attorney. PDs and APDs have the same ethical obligations as private attorneys. PD and APDs unable to comply with Rules Regulating The Florida Bar due to excessively high caseloads.
- **Annual Caseload Limits. Fla. max is 200 felonies per year, National 150 per year.**
- **Evidence of excessive caseloads: plea blitzes, horizontal representation, pleas at arraignment and testimony as to what cannot be done that should be done.**
- PD-11 motions were granted by two trial judges (Blake and Thornton). Judge Blake granted our motion and agreed to temporarily stop assigning new clients to the Public Defender (on non-capital cases).
- 3rd DCA reversed Judge Blake;
- According to the 3d DCA, the Florida Legislature has established a separate code governing conflicts that is different than for any other lawyers in Florida. First: conflicts of interest standards changed from substantial risk to prejudice; Second: managing partners are no longer responsible for, and cannot take actions to prevent or eliminate, conflicts by attorneys in their office. The question for the Florida Bar is if it will sit by while the Legislature creates alternative (and lower) standards for PDs and APDs.
- PD-11 seeking review in Fla. S. Ct. Waiting to see if they'll accept the case.
- PD-11 filed motion to withdraw on individual cases in trial court. Won the motion to withdraw in front of Thornton on a single case. Lost motion to declare statute unconstitutional.
- State Attorney (SA-11) intervened claiming party status on a motion to withdraw due to an ethical conflict; SA-11 placed itself in the constitutionally questionable position of having a say in the selection of the lawyer who will represent an individual that it is prosecuting. SA-11 took depositions of opposing party (Public Defender and the Assistant Public Defender). The Third DCA granted a stay.
- Pleadings and more information available at www.pdmiami.com.